

REMARKS / ARGUMENTS

Claims 1-10 remain in the application. Claims 1, 5, 6 and 10 are being amended.

We wish to thank Examiner Madsen for the opportunity to discuss this application during a telephone interview held on 29 July, 2004. The Examiner's Interview Summary dated 4 August, 2004, contains the Examiner's summary of the substance of the interview. During the interview, the undersigned requested entry of amended claims 1 and 6, but the Examiner indicated that the amended claims could not be entered because they contained new limitations which required an update search before they could be considered.

Amended claims 1 and 6 include the language, in clause 1(a) and 6(b) respectively, "the top lid surface not being shaped to interconnect with the bottom container surface". We submit that this language clearly distinguishes the claimed invention from Schechter (U.S. Patent No. 3,079,037), and that the combined teachings of Schechter and Doyle (U.S. Patent No. 5,171,593) do not teach a method of securing a lid to the bottom of the container, which utilizes a lid having a top surface which is not shaped to interconnect with the bottom of the container surface. Unlike Doyle or Schechter, the claimed method secures the lid to the bottom of the container merely by means of a sheet of flexible material.

We submit that one skilled in the art would not be motivated to modify Doyle in view of Schechter to come up with the claimed invention, as there is nothing in Doyle or Schechter to suggest combining them. The Doyle container is not a reusable container, and there is no need for a lid, so Doyle does not teach the securing of a lid to the bottom of the container. Schechter teaches securing a lid by use of interconnecting means comprising a special rib 26 on the top of the lid and a groove 27 on the bottom of the container. There is no need to overwrap the lid of Schechter with plastic wrap to secure it to the bottom of the container, since the lid is already secured to the bottom by the interconnecting means 26, 27. Thus Schechter actually teaches away from overwrapping the lid with plastic wrap to secure it to the bottom. Since Schechter teaches away from the invention, Schechter would not motivate someone skilled in the art to modify Doyle to create the claimed invention.

Regarding claim 1, Doyle merely teaches tucking wrap under the tray (see column 3, lines 46-49). Doing so would not secure the lid to the bottom of the tray. Thus the step of overwrapping the container and lid, set out in clause (d) of claim 1, is not disclosed by Doyle or any combination of the prior art references. In addition, Doyle does not disclose the step set out in clause 1(e) of folding the sheet underneath such that the edge portions overlap, or the step set out in clause (e) of claim 1 of coupling the overlapping portions together. And, since Schechter does not utilize a flexible material to overwrap a container and a lid, one skilled in the art would not be motivated by Schechter to modify Doyle to include the aforesaid steps.

Similar comments apply to amended claim 6. The step of surrounding the container and lid with a layer of flexible material, set out in clause (c) of claim 6, and the step of coupling open portions together, set out in clause (d) of claim 6, are not disclosed by Doyle or Schechter, whether considered alone or in combination with each other or any of the other cited references.

For the above reasons, we submit that the claims as amended define the subject matter which is not anticipated by any of the cited prior art references, or obvious in view of the combined teachings of any of the prior art references.

This Amendment is accompanied by a Request for Continued Examination and a Petition for a one-month extension of time for responding to the Final Action.

In view of the above considerations, we submit that this application is now in condition for allowance, and an early allowance of this application is respectfully requested.

Respectfully submitted,
EMMETT FLYNN



Timothy J. Sinnott
Registration No. 31,083
/sr
Bereskin & Parr
Box 401
40 King Street West
Toronto, Ontario
Canada M5H 3Y2
Telephone: (416) 957-1694
Fax: (416) 361-1398